

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KATHERYN M. SCHMIDT,

Plaintiff

V.

**CAROLYN W. COLVIN, Acting
Commissioner of Social Security,**

Defendant

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CIVIL NO. 1:13-3074

(Judge Rambo)

(Magistrate Judge Cohn)

MEMORANDUM

Before the court is a February 13, 2015⁴, report and recommendation of the magistrate judge to whom this matter was referred in which he recommends that the Plaintiff's appeal of the decision of the Administrative Law Judge (ALJ) be denied because the ALJ's decision is supported by substantial evidence. Plaintiff has filed objections to the report and recommendation. The Government has not responded to the objections.

One of the objections to the report and recommendation is that the ALJ failed to incorporate into her RFC limitations associated with Plaintiff's headaches. The magistrate judge opined that "the only limitations that could have affected the outcome if the ALJ erred in failing to include them are the limitations in prolonged standing, prolonged walking, and three to eight days of headaches per month that are relieved only by sleeping." (Doc. 26 at p. 20.) The magistrate judge further opined that the medical records cited by Plaintiff "show only diagnoses, symptoms, and Plaintiff's subjective report of limitations . . ." and "the ALJ found Plaintiff's subjective claims not credible" *Id.*

The record, however, shows that Plaintiff was treated for her headaches and that she underwent an MRI. Dr. Khan interpreted the “MRI of the brain as

showing non-specific white matter abnormalities which can be seen in patient with history of hypertension, hyperlipidemia, smoking, and migraine headache.” (Doc. 9 at p. 246.) Dr. Khan also opined that Plaintiff “has chronic long-standing headache which can be due to migraine without aura or to cervical spondylosis.” (*Id.*)

Thus, there appears to be some medical record that may support Plaintiff’s subjective complaints about headaches. The ALJ should have at least explained why this report was not given consideration and not made part of the hypothetical given to the vocational expert.

This court will adopt in part and reject in part the report and recommendation of the magistrate judge and will remand to the Commissioner with instruction to reexamine and clarify this case regarding the issue above. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: March 25, 2015.